

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
GRANT COUNTY ADMINISTRATION CENTER, 1400 HWY. 180 E., SILVER CITY, NM
October 26, 2021, 6:00 p.m.**

Present:

Ken Ladner, Mayor
Lynda D. Aiman-Smith, District 2
Jose A. Ray, Jr., District 3
Guadalupe E. Cano, District 4

Also, present:

Alex C. Brown, Town Manager
James Reynolds, Town Attorney
Freddie Portillo, SCPD Chief
Maria C. Sublasky, Acting Town Clerk/Admin Asst. to
Exec. Department

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE - Mayor Ladner called the meeting to order at 6:00 p.m. The Mayor welcomed everyone, and acknowledged Chief Portillo, the news media and the members of the community.

2. CHANGES TO AGENDA - None.

3. CEREMONIES – None.

4. PROCLAMATIONS –None.

5. COUNCIL COMMENTS – Councilor Ray made some comments pertaining to immigrants coming to the states and also the teenagers in Austin, Texas being recruited to bring immigrants across in exchange for money. He reminded the public of the Bond Issue in the elections that are coming up. Councilor Ray also commented that parents should have a right to say what is being taught in schools and also referred to using virtual teaching method and indicated it could be done without masks. He encouraged all to go vote.

Councilor Aiman-Smith thanked the Silver City Daily Press for hosting the candidate forum virtually. She echoed Councilor Ray's comment that the Elections are coming up and stated that early voting is currently taking place from 8 am to 5 pm at the County Administration Building and on Saturdays from 8am to 8pm. She thanked the County Clerk's Office for the good job they are doing. Councilor Aiman-Smith stated Covid cases are rising again and she encouraged vaccinations for those that are still unvaccinated, the wearing of masks when indoors, social distancing and also recommended that vaccinated persons wear a mask as a safety precaution to protect those who have immunodeficiencies, as many of us do.

Councilor Cano opened her comments by inviting the public to the Chihuahua Hill Mural & Park dedication event this Saturday, October 30, 2021 from 10-2pm on the corner of Theodore and Richard Street. She stated refreshments would be served afterwards at the LULAC hall located across the street from the park. She indicated that Chief Portillo had prepared a report that she had asked for at the last meeting and did not know if he could present it now or under reports. The Mayor asked if he would wait to do so under Reports and asked if there were any other council comments. There were none.

Mayor Ladner stated he only had one comment and stated that Covid cases had been going down in September but the curve is now up and growing at an unprecedented rate. He stated that the Cliff Schools and the City Hall in Bayard were closed due to Covid exposures. He encouraged the public to use good safety practices, in whatever form that meant to them.

6. APPROVAL OF MINUTES – Regular Meeting on October 12, 2021. Mayor Ladner asked for a motion to approve the minutes. Councilor Aiman-Smith moved to approve the Minutes of the Regular Council Meeting of the Town of Silver City of October 12, 2021. Councilor Ray seconded the motion. No discussion. Mayor asked that all in favor say aye. All in favor. Mayor asked those opposed to say nay. There were none opposed. Motion carried.

7. PUBLIC INPUT – Mayor Ladner called Carol Ann Fugagli up to speak under public input. Mrs. Fugagli stated that she virtually attended New Mexico’s first Climate Summit held at the roundhouse in Santa Fe. She was inspired that New Mexico continues to lead the nation towards a just transition for a livable climate. The Governor announced New Mexico would achieve Net Zero greenhouse gas emissions by 2050. She stated that achieving Net Zero meant two things, one being that greenhouse gas emissions would be cut and two, that you remove emissions out of the air. She referred to compliance with the carbon law in every sector of transportation, agriculture, building codes, etc. and on individual, home, city, state, national and country level. She mentioned a youth led program in California called the Green School’s Campaign where the goal was to transition all 1,100 schools in the Los Angeles Unified School District to 100 percent clean renewable electricity by 2030 and all other energy usages including transportation by 2040. She stated that transitioning our schools, businesses and city owned buildings to renewable electricity was a good place to start. She also commented that carbon dioxide needed to be removed from the atmosphere and could be achieved by planting trees and improving soil so it can store more carbon. Mrs. Fugagli added that the Upper Gila Watershed Alliance recently started a tree planting campaign whereby local youth will grow over 300 trees and plant in appropriate locations. She indicated that UGWA also continues to work on the composting projects resulting from the Climathon to improve our soil as well as the start of a civilian climate corps. She invited everyone to attend a meeting on Saturday, October 30 at 4pm at the Commons where ideas will be generated on an EPA Grant proposal for a civilian climate corps to be stationed at Fort Bayard. Mrs. Fugagli thanked the Council for their good work.

Mayor Ladner called up Linda Pafford to the podium. Ms. Pafford stated that she resides in Mimbres and would like to add to her previous comments on the proposed Cannabis Ordinance. She stated she has been speaking with various officials about the discriminatory language being placed into our local ordinances simply because the same language was used in the state act. She did not believe it was mandated that the language be blindly copied as the ordinance is the means whereby instructions are given to the police on how they are to enforce it. She went on to say that it is legal to possess, carry and use Cannabis in our state but once this ordinance is passes as is, it will not be legal to smoke it in any location that can be accessed by the public. She went on to state it was discriminatory as none of the other forms of ingestions are similarly restricted after the point of sale and therefore clearly not about controlling THC but rather only the smoke. She suggested that an ordinance was being created that would not be enforceable. She mentioned a scenario whereby the language endangers the homeless, many of whom have mental health issues or PTSD that they can legally treat with medical marijuana. But do not have a home that they can retreat to in order to obtain more processed forms to treat themselves. So, the Police will be required to cite these smokers, issue a citation for a \$50 fine they cannot pay, which would lead to a warrant, a future arrest, a court appearance and possibly jail, all effectively criminalizing legal medication. She feels it is a waste of community resources, time and monies. Ms. Pafford stated that if the wording did not match the Cannabis Act exactly, the Town could choose to instruct the police officers to not enforce those few discriminatory words just as the State Police do not enforce federal prohibition and instead direct them to enforce all smoke with the same regulations for tobacco use. Ms. Pafford asked that the Council consider less restrictive language be grandfathered in as the rules for tobacco use already do everything needed to protect the public from any smoke. She also invited everyone to the upcoming online meeting of the Southwest Chapter of the New Mexico ACLU this Friday online, where the speaker will be presenting on the Cannabis Law. She indicated the link could be googled online by searching for the Southwest Chapter of the ACLU.

8. REPORTS –

A. Staff Reports. –Mr. Brown stated Chief Portillo was the only one reporting. Chief Portillo presented the statistics that were requested by Councilor Cano for Broadway, North of Hudson St, East on 12th Street to Gold Street; Gold Street-from 12th Street on Gold and South to Broadway. He indicated that data was pulled to show self-initiated activity and calls for service in that area and including the Seasonal Overnight Shelter for the period from August 1st, 2021 to October 25th between the hours of 4 pm and 6 am. He stated 34 calls for service were made for the SOS, and range from welfare checks, noise complaints, abandoned 911 calls, disturbances, unwanted subjects, and criminal trespasses. There were 21 documented self-initiated calls for frequent patrols at the SOS. In the same area, including the side streets mentioned earlier, there were 75 self-initiated frequent patrols documented in the area. There were also self-initiated frequent patrols bordering the area of concern that he wished to mention. There were

17 citizen calls documented in the system and 32 traffic stops within that area. The Chief reported that the police department averages approximately 500 self-initiated calls monthly and are documented as frequent patrols in the system in target specific areas. A Lieutenant from the department updates a weekly report which includes target specific areas. The shelter is one of those areas and other areas included in the target specific areas are the construction areas, Silver Heights and Hudson and Silver Heights and Swan. Chief Portillo also reported a spike in burglaries in the month of September, and a significant increase in the number of stolen vehicles which has required the utilization of manpower. He informed the Council that the busiest sectors currently are the Northeast sector and the Southwest sector and indicated that Justice Assistance Grants are being utilized through investigations and patrol to impact criminal activity in certain areas. Chief Portillo indicated the department is prioritizing and trying to be everywhere at the same time throughout the community. He also stated that Animal Control and Code Enforcement were also patrolling that area as well. He asked if there were any questions for him. Councilor Aiman-Smith asked Chief Portillo for the definition of the term self-initiated. The Chief stated a call for service is a call made by an individual whereby they are calling in criminal activity or suspicious activity. He went on to say that a self-initiated call is one whereby the officer is being proactive on his or her own and places that call. Councilor Aiman-Smith thanked the Chief. Councilor Cano also thanked the Police Department and stated it was important for the people of that area to know this information. Mr. Brown interjected and stated that in reviewing the ordinances, they found that the nuisance ordinance is very weak and just not really enforceable. He indicated that unless there is a stronger nuisance ordinance, they will not be able to use it to enforce those areas or locations in the town that they continually need to be responding to calls due to the nuisance. He stated that would help them address this issue as well as the issue of homes needing trash clean up at. He asked that one of the Councilors consider sponsoring the updating of the nuisance ordinance so that they might better address these issues. Councilor Ray inquired if there were currently issues with residents not keeping up with their homes and property. Mr. Brown indicated that there were issues but again, unless the ordinance is made stronger it will be impossible to enforce any issues of this nature being that the ordinance is the tool that would do so. Mr. Brown stated the case for a nuisance exists but we don't have an ordinance strong enough to enforce the nuisance. Councilor Ray also commented that he read in the newspaper that there would be a \$5 dollar fine for anyone not covering their loads when transporting the load to the dump. Mr. Brown stated that was correct. Chief Portillo encouraged the public to contact the police department or Central dispatch at 388-8840 if they observed any criminal activity. Councilor Ray inquired if it would be helpful for one of the Councilors to assist with the language or ask for the Chief's advice on what language should be included. Chief Portillo stated that he and Officer Jaure have spoken and both agree that stronger language is needed. He feels the input from Code Enforcement would be very helpful. Councilor Ray indicated he was interested. The Chief then asked for permission to make a closing remark and reminded the public to be mindful of the children and use traffic safety this weekend with all the events and Facebook notices being posted for Halloween. He indicated the Police Department would be hosting a small event at La Plata Middle School where they will be giving out candy to the kids and their families in the front parking lot from 4 to 6 pm. The Mayor thanked Chief Portillo for his involvement and interaction with the community on these types of events.

9. PUBLIC HEARINGS – None.

10. UNFINISHED BUSINESS – None.

11. NEW BUSINESS –A. Approval/Disapproval of Resolution No. 2021-32: A resolution to terminate the Water Tank Maintenance Contract for Project Number 118561.

Mr. Brown stated that the termination of an existing Maintenance Contract which allows for termination with a 90-day notice. He stated terminations had to be done by resolution and therefore before them. He indicated that this contract pertained to the South Cemetery Tank with a capacity of 1 million gallons. The contract has been in place for ten years and have gone through the whole process of renovation and is now in maintenance mode only. The maintenance for the tank is costing the Town \$27,000 and he feels the Town can do it for less by maintaining it themselves. Councilor Ray moved to approve Resolution No. 2021-32, a resolution to terminate the Water Tank Maintenance Contract for Project Number 118561. Councilor Aiman-Smith seconded the motion as stated. There was no

discussion or comments. Mayor Ladner asked for a roll call. Councilor Aiman-Smith stated aye. Councilor Ray stated aye, Councilor Cano stated aye. All were in favor; motion carried.

B. Appointment of Town Councilor for District 1:

Mayor Ladner stated that per the Town of Silver City Town Ordinance 1302, Section 2-25, Vacancies on Town Council which reads “Any vacancy on the town Council shall be filled by appointment of a qualified elector by the Mayor, with the advice and consent of the Town Council.” He commented that requirements to be a qualified elector meant they needed to reside in District 1. He then stated that the vacancy occurred when Councilor Cynthia Bettison resigned as Town Councilor for District 1 effective September 14, 2021. He then stated the public was given notice of the vacancy in the Silver City Daily Press that was periodically published from September 17 through October 15, and also published by Grant County Beat and on the Town website. He then proceeded to read the advertisement and stated that five applications were received by the deadline of October 15, 2021. The Mayor then stated the applications were reviewed and evaluated by the Mayor and Councilors during the week of October 18 through October 22, 2021. Mayor Ladner then asked if there were any Councilors present who did not evaluate the five applications during that period. All Councilors replied stating they had reviewed the five applications. He then stated that according to the public notice, each application should have included complete contact information, a resume and “a letter of intent indicating why they would like to serve as Councilor for District 1”. He then thanked all that submitted applications and stated that in doing so they were volunteering for a position that required a lot of their personal time. He commented that he hoped those who applied would maintain an interest in serving and volunteering in other positions with the Town Committees and activities. Mayor Ladner stated that based on his review of the applications and published criteria, he appointed Frances Vasquez as Town Councilor for District 1. He then said he would poll the Town Council for their comments and also their consent or objection to the appointment. He asked that they please state if they consented or objected to his appointment. Councilor Aiman-Smith stated she consented with his appointment and then stated she had worked with Frances Vasquez through various community-oriented boards and found her to be thoughtful, well-informed and certainly community oriented in her actions and thoroughly consented to his request to appoint. Mayor Ladner then called on Councilor Ray who responded by stating he objected and did not wish to go into detail or comment further. Mayor Ladner then called on Councilor Cano. Councilor Cano stated she too had worked with Frances Vasquez on several occasions and due to that and the fact that she felt there were other candidates who would represent the district better, she objected. The Mayor thanked the Councilors for their comments and stated that in this case of two councilors opposing and one councilor consenting, his appointment of Frances Vasquez as Town Councilor for District 1 was not passed and the appointment fails. Mayor Ladner then stated the issue would be addressed at a future Council Meeting.

12. ADJOURNMENT - Mayor Ladner stated this concluded the business of the Town of Silver City, and asked for a motion to adjourn. Councilor Aiman-Smith made a motion to adjourn at 6:38 pm. Councilor Ray seconded the motion. All in favor. Mayor asked all opposed say nay, there were none opposed. Motion carried.

/s/
Ken Ladner, Mayor

Attest:

/s/
Maria C. Sublasky, Acting Town Clerk